

REMARKS

In the above-referenced Office Action, the Examiner rejected Claims 1-2,9-10, 14-15 under 35 U.S.C. § 102(e) as being anticipated by Amicangelo (USPN 6,364,031).

In support of this rejection, the Examiner stated, "In reference to claim 1, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), the driver (10) comprising: a body portion (32, 34) having an elongated cavity (36,38) for receiving such elongated object (60; column 5, lines 7-22), the elongated cavity having a blind end (42, 44) within the body portion (32,34); an impact surface carried by the body portion substantially normal to the elongated cavity, for receiving impacts (column 5, lines 14-17,23-25); and at least one elongate handle (20; column 6, lines 19-26) attached to the body portion (32,34; column 4, lines 64-67; column 5, lines 1-5).

Regarding claim 2 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the at least one elongated handle (22,24) is substantially parallel to the elongated cavity (36,38) and spaced apart laterally from the elongated cavity.

With respect to claim 9 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the driver includes at least a two elongated handles (24, 22), the at least two elongated handles (22, 24) being spaced apart oppositely from the elongated cavity (36, 38).

In reference to claim 10 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body

portion (30) includes a pipe welded normally to a plate (28), and the two elongated handles (22, 24) are welded to the plate (29; column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 14, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), the driver (10) comprising: a body portion (32,34) having an elongated cavity (36, 38) for receiving such elongated object (60; column 5, lines 7-22), the elongated cavity having a blind end (42, 44) within the body portion (32,34); an impact surface carried by the; body portion substantially normal to the elongated cavity, for receiving impacts (column 5, lines 14-17, 23-25); and at least one elongate handle (20; column 6, lines 19-26) attached to the body portion (32,34; column 4, lines 64-67; column 5, lines 1-5); and a pair of handles (22, 24) spaced laterally and oppositely from the cavity (32,34), the handles being substantially parallel to the to the elongated cavity (32, 34; column 6, lines 19-26).

With respect to claim 15 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) having sufficient strength and mass to be employed as an impact device to provide impacts on the elongated object (60) by the blind end (42, 44) of the elongated cavity (32, 34; column 5, lines 14-17, 23-25)."

This rejection is believed to been rendered moot by the above amendment to claim 1 which now specifically recites, "...an impact member carried by said body portion adjacent an upper end thereof and disposed substantially normal to said elongated cavity, said impact member having an upper surface for receiving impacts and a radially opposed lower surface engageable with an upper end of such elongated object for imparting a driving force to such elongated object, said elongated cavity having a blind end within said body portion

formed by said radially opposed lower surface of said impact member...". Clearly, this arrangement is neither taught nor suggested by the cited reference. The surface engageable with the end of the rod member to be driven into the earth either 42 or 44 is disposed intermediate the ends of the handle 30. On the other hand, applicant's invention requires the surface engageable with the end of the rod member to be at one end of the apparatus. Accordingly, the Examiner is respectfully requested to withdraw his rejection of Claims 1-2, 9-10, 14-15 under 35 U.S.C. § 102(e) as being anticipated by Amicangelo (USPN 6,364,031).

In paragraph 4 of the above referenced Office Action, the Examiner rejected Claims 3-5, 7-8 and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) as applied to claim 1 above, and further in view of Tucker (USPN 5,934,139). In this rejection, the Examiner stated, "With respect to claim 3 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the impact surface (42,44) has an area substantially less than a cross section of the elongated cavity (32, 34) whereby the driver is a good target for a hammer. Tucker teaches a driver for inserting an elongated object (12) into a surface (figures 3a-3b), wherein the impact surface (38) has an area substantially greater than a cross section of the elongated cavity (14) whereby the driver is a good target for a hammer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the impact surface of Amicangelo to include the impact surface of Tucker.

In reference to claim 4, 16 and their limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body

portion (32,34) includes a pipe (30) attached normally to a plate (28), however the impact surface (22, 24) are located on the sides of the plate (28), not the upper surface of the plate (28). Tucker teaches a pipe attached normally to a block (38) and the impact surface is the upper portion of the block (38). It would have been obvious to one having ordinary skill in the art to further modify the driver of Amicangelo in view of Tucker by replacing the block with a plate for the purpose of having a plate attached to the pipe acting as the impact surface, since the specific use of plate is not stated to solve a specific problem.

Regarding claim 5, 17 and their limitations as stated above, the modified driver of Amicangelo in view of Williams et al. discloses a pipe that is welded to a plate.

In reference to claim 7 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle is welded to the plate at an end of the handle (column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 8 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further includes a transverse portion attached to the pipe (30) at a location on the pipe (30) spaced longitudinally from the plate (figures 1 and 4-5)." It is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested. Therefore, the Examiner is respectfully requested to withdraw his rejection of Claims 3-5, 7-8 and 16-17 under 35 U.S.C. §

103(a) as being unpatentable over Amicangelo (USPN 6,364,031) as applied to claim 1 above, and further in view of Tucker (USPN 5,934,139).

Claims 6 has been rejected by the Examiner in paragraph 5 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo, (USPN 6,364,031) and Tucker(USPN 5,934,139) as applied to claim 5 above, and further in view of Ubbink (USPN 5,029,651). in support of this rejection, the Examiner stated, "With respect to claim 6 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32,34) includes a pipe (30) welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver." It is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested. Therefore, the Examiner is respectfully requested to withdraw his rejection of Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo, (USPN 6,364,031) and Tucker(USPN 5,934,139) as applied to claim 5 above, and further in view of Ubbink (USPN 5,029,651).

Next, the Examiner rejected Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Ubbink (USPN

5,029,651). To support this rejection, the Examiner stated, "Regarding claim 11 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32,34) includes a pipe (30) welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver." Once again, it is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested. Therefore, the Examiner is respectfully requested to withdraw his rejection of Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Ubbink (USPN 5,029,651).

Thereafter, in paragraph 7, the Examiner rejected Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Deike (USPN 3,735,822). He stated, "With respect to claim 12 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) further having elongated handles (22,24) but does not disclose elongated handles (22, 24) with hand grip. Deike teaches a driver having elongated handles (67, 70) with hand grips (71, 72). It would have been obvious to one

having ordinary skill in the art at the time the invention was made to modify the handles of the driver of Amicangelo to include the hand grips of Deike. Once again, it is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested. Therefore, the Examiner is respectfully requested to withdraw his rejection of Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031 as applied to claim 10 above, and further in view of Deike (USPN 3,735,822).

The Examiner, in paragraph 8 of the above referenced Office Action, rejected Claim 13 under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) in view of Tucker (USPN 5,934,139) as applied to claim 4 above, and further in view of Bitzel (USPN 3,847,049). To support this rejection, the Examiner stated, "Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) but does not disclose any means for removing earth from the pipe. Bitzel teaches a slot in being used to facilitate removal of impacted debris from a tool. (column 5, lines 58-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo in view of Tucker to include the slot of Bitzel for the purpose of facilitating the removal of impacted earth from the pipe of the driver." Once again, it is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested.

Therefore, the Examiner is respectfully requested to withdraw his rejection of Claim 13 under 35 U.S.C. 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) in view of Tucker (USPN 5,934,139) as applied to claim 4 above, and further in view of Bitzel (USPN 3,847,049).

Finally, in paragraph 9, the Examiner rejected Claims 18-21 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) and Tucker (USPN 5,934,139) as applied to claim 17 above, and further in view of Ubbink (USPN 5,029,651). He stated, in support of this rejection, "With respect to claim 18 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (32 34) includes a pipe (30), welded normally to a plate (28; column 5, lines 47-49), but does not disclose the attachment consisting of gusset welds. Ubbink teaches a driver using gusset welds to attach the upper surface of handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver.

In reference to claim 19 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5), wherein the body portion (30) includes a pipe welded normally to a plate (28), and the two elongated handles (22, 24) are welded to the plate (29; column 5, lines 47-49; column 6, lines 19-26).

Regarding claim 20 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further includes a transverse portion attached to the pipe (30) at a

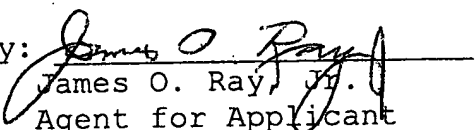
location on the pipe (30) spaced longitudinally from the plate (figures 1 and 4-5).

With respect to claim 21 and its limitations as stated above, Amicangelo discloses a driver (10) for inserting an elongated object (60) into earth (figures 4-5) wherein the handle further includes transverse portions welded to the pipe (30), but does not disclose those welds as being gusset welds. Ubbink teaches a driver using gusset welds to attach the handles to the body portion of the driver (figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the driver of Amicangelo to include the gusset welds of Ubbink to connect the plate to the body portion of the driver." Once again, it is respectfully suggested that the limitations to the structure of the apparatus as amended in claim 1 has clearly rendered the primary reference of Amicangelo, (USPN 6,364,031) moot. Accordingly, because the structure is totally different the additional references incorporated with the primary reference are not suggested. Therefore, the Examiner is respectfully requested to withdraw his rejection of Claims 18-21 under 35 U.S.C. § 103(a) as being unpatentable over Amicangelo (USPN 6,364,031) and Tucker (USPN 5,934,139) as applied to claim 17 above, and further in view of Ubbink (USPN 5,029,651).

In view of the above amendments to the claims and the remarks associated therewith it is respectfully suggested that Claims 1-21 are in condition for a allowance and such allowance on the part of the Examiner is respectfully requested.

In the event the Examiner has further difficulties with the allowance of the application, he is invited to contact the undersigned attorney by telephone at (412)380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

By: 
James O. Ray, Jr.
Agent for Applicant
Registration No. 27,666

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

TELEPHONE: 412-380-0725
FACSIMILE: 412-380-0748

APPENDIX A

1. (Amended) A driver for inserting an elongated object into earth, said driver comprising:

a body portion having an elongated cavity for receiving such elongated object[, said elongated cavity having a blind end within said body portion];

an impact [surface] member carried by said body portion adjacent an upper end thereof[,] and disposed substantially normal to said elongated cavity, said impact member having an upper surface for receiving impacts and a radially opposed lower surface engageable with an upper end of such elongated object for imparting a driving force to such elongated object, said elongated cavity having a blind end within said body portion formed by said radially opposed lower surface of said impact member; and

at least one elongated handle attached to at least one of said impact member and said body portion.

3. (Amended) A driver, according to claim 1, wherein said upper surface of said impact [surface] has an area substantially greater than a cross section of said elongated cavity whereby said driver is a good target for a hammer.

4. (Amended) A driver, according to claim 3, wherein said body portion includes a pipe attached normally to said impact member [a plate and said impact surface is an upper surface of said plate].

5. (Amended) A driver, according to claim 4, wherein said pipe is welded to said impact member [plate].

6. (Amended) A driver, according to claim 5, wherein said driver further includes [including] at least one gusset welded to said [plate] impact member and to said pipe.

7. (Amended) A driver, according to claim 5 wherein said handle is welded to said [plate] impact member at an end of said handle.

10. (Amended) A driver, according to claim 9, wherein said body portion includes a pipe welded normally to [a plate] said impact member, and said two elongated handles are welded to said [plate] impact member.

11. (Amended) A driver, according to claim 10, wherein said driver further [including] includes at least two gussets welded to said pipe and to said [plate] impact member.

12. (Amended) A driver, according to claim 1, wherein said driver further [having] includes a hand grip on said at least one elongated handle.

13. (Amended) A driver, according to claim 4, wherein said pipe has a slot at an end of said pipe remote from said [plate] impact member, said slot [being to facilitate] facilitating removal of impacted earth from said pipe.

14. (Amended) A driver for inserting an elongated object into earth, said driver comprising:

a body portion having an elongated cavity for receiving such elongated object[, said elongated cavity having a blind end within said body portion];

an impact [surface] member carried by said body portion adjacent an upper end thereof and disposed substantially normal to said elongated cavity; said impact [surface being] member having an upper surface for receiving impacts from a hammer and a radially opposed lower surface engageable with an upper end of such elongated object for imparting a driving force to such elongated object, said elongated cavity having a blind end within said body portion formed by said radially opposed lower surface of said impact member; and

a pair of handles spaced laterally and oppositely from said cavity, said handles being substantially parallel to said elongated cavity.

16. (Amended) A driver, according to claim 14, wherein said body portion includes a pipe attached normally to [a plate and said impact surface is an upper surface of said plate] said impact member.

17. (Amended) A driver, according to claim 16, wherein said pipe is welded to said [plate] impact member.

18. (Amended) A driver, according to claim 17, wherein said driver further [including] includes two gussets, each of said gussets welded to said pipe and to said [plate] impact member.

19. (Amended) A driver, according to claim 18, wherein said handles are welded to said [plate] impact member.

20. (Amended) A driver, according to claim 19, wherein each of said handles further includes a transverse portion attached to said pipe at locations on said pipe spaced longitudinally from said [plate] impact member.

21. (Amended) A driver, according to claim 20, wherein
said driver further [including] includes a pair of gussets
welded to said transverse portions and to said pipe.